

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WELDON MARC GILBERT,

Defendant.

Case No. CR07-5732 BHS

**ORDER DENYING REQUEST
TO RECONSIDER DETENTION
ORDER**

This matter comes before the court pursuant to Defendant's Motion for Reconsideration of Detention Order. The court has considered all materials submitted in support of and in response to said motion (including the Pre-Trial Services Report) as well as the files and records herein. The court has also listened to the digital recording of the detention hearing.

This court entered an order detaining the defendant on November 29, 2007. The order followed oral argument and was premised on the following community safety and flight risk concerns:

- (1) determination of probable cause by the grand jury;
- (2) rebuttable presumption for detention based on the alleged minor age of the victim(s);
- (3) nature of the allegations, and the proffer of extensive similar, but yet uncharged conduct;
- (4) strength and volume of the DIRECT evidence in support thereof;
- (5) substantial reason to believe that self-control (impulse) issues heighten considerably the

- 1 potential of both flight risk and community safety;
- 2 (6) defendant's history and skills in the world of travel, as well as the availability of funds and
- 3 resources to assist with travel;
- 4 (7) apparent naivety and lack of awareness of defendant's lifestyle by defendant's proposed family
- 5 members offered as resources to assist with proposed release conditions;
- 6 (8) defendant's contact with an alleged victim;
- 7 (9) the maximum potential sanctions facing defendant if convicted.

8 In support of this motion the defendant argues (a) false allegations in the complaint, indictment, and

9 in support of the government's motion for detention; and (b) the surrender of defendant's passport and the

10 seizure of his private aircraft.

11 With regard to the alleged false allegations by the government, the court has carefully reviewed

12 defendant's challenge as well as the government's response. While it appears that there may have been

13 some inaccuracies in detail, they have been adequately explained by the U.S. Attorney. The nature and

14 substance of the alleged conduct as it relates to the issues of flight risk and community safety has not

15 changed. The materials submitted by the government in response to the motion for reconsideration have in

16 fact enhanced the court's level of concern regarding community safety.

17 With regard to the surrender of the passport and the seizure of the aircraft the court is not

18 persuaded. As indicated by the court in the oral decision of November 29, 2007 (which is incorporated by

19 this reference as though fully set forth herein) the court's concern was not relieved by the suggestion that

20 defendant's availability to flee was significantly compromised by the lack of a passport or the availability of

21 his own personal aircraft. His knowledge, skills, and experience regarding travel combined with the other

22 factors set forth above defeated his ability to adequately rebut the presumption for detention.

23 **Accordingly, defendant's motion that the court conduct a hearing to reconsider the issue of**

24 **detention is denied.**

25 DATED this 22nd day of February 2008.

26 /s/ J. Kelley Arnold

27 J. Kelley Arnold

28 U.S. Magistrate Judge